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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

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5 Terrance D. Brothers,

6 Plaintiff,

7 v.

8 Dwight Neven, et al.

9 Defendants.

Case No. 2:17-cv-00641-JCM-BNW

**ORDER**

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11 Before the Court is plaintiff Terrance D. Brothers's motion for discovery schedule and  
12 motion for issuance of summons. ECF Nos. 59 and 60. The Court has sua sponte entered a  
13 scheduling order in this matter. *See* ECF No. 61. Therefore, the motion for a discovery schedule  
14 will be denied as moot.

15 Turning to the motion for issuance of summons, the Court will construe Brothers's motion  
16 as one to issue summons **and** to effect service of process. Brothers proceeds in forma pauperis  
17 ("IFP"), ECF No. 13, which means he is entitled to the Court's aid in issuing and serving all  
18 process. Accordingly, his motion for issuance of summons will be granted.

19 **I. Background.**

20 In this § 1983 case, Brothers brings a single claim against defendants Dwight Neven and  
21 Romeo Aranas. ECF No. 58 at 2. Brothers has accused Neven and Aranas of violating his rights  
22 under the Eighth Amendment to the United States Constitution by acting deliberately indifferent  
23 to his serious medical needs. *Id.*

24 Nevada's Office of the Attorney General accepted service on behalf of Neven. ECF No.  
25 14. The Attorney General declined to accept service on Aranas's behalf and instead filed his  
26 address under seal. ECF No. 15.

27 Brothers filed a second amended complaint ("SAC") in January 2020. ECF No. 49. Upon  
28 defendants' motion, the district judge stayed this matter until the Court could screen Brothers's

1 SAC. ECF No. 57 at 3. This Court has since screened the SAC and found that Brothers had  
2 viable claims against Neven and Aranas. ECF No. 58 at 2.

3 On September 3, 2020, less than two weeks after the Court screened the SAC, Brothers  
4 moved for the issuance of a summons for defendant Romeo Aranas. ECF No. 59.

## 5 **II. Discussion.**

6 This Court construes Brothers's motion as one to issue summonses for—and to effect  
7 service of process upon—Aranas.<sup>1</sup> When a party proceeds IFP, the Court “shall issue and serve  
8 all process.” 28 U.S.C. § 1915(d); *Puett v. Blandford*, 912 F.2d 270, 273 (9th Cir. 1990) (“a party  
9 proceeding in forma pauperis is entitled to have the summons and complaint served by the U.S.  
10 Marshal.”).<sup>2</sup> Here, Brothers proceeds IFP and he has viable claims against Aranas. Accordingly,  
11 Brothers is entitled to the Court's aid in issuing and serving all process and the Court will  
12 therefore grant his motion.

## 13 **III. Conclusion.**

14 IT IS THEREFORE ORDERED that Brothers's motion for a discovery schedule (ECF No.  
15 60) is DENIED as moot.

16 IT IS FURTHER ORDERED that Brothers's motion for issuance of a summons (ECF No.  
17 59) is GRANTED.

18 IT IS FURTHER ORDERED that the Clerk of Court is directed to issue a summons, under  
19 seal, for defendant Romeo Aranas, using the address filed under seal at ECF No. 15.

20 IT IS FURTHER ORDERED that the Clerk of Court send Brothers two blank copies of  
21 form USM-285.

22 IT IS FURTHER ORDERED that Brothers shall have twenty days in which to furnish the  
23 U.S. Marshals Service with the required USM-285 forms.<sup>3</sup> On the forms, Brothers must leave  
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25 <sup>1</sup> Pro se filings must “be liberally construed.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

26 <sup>2</sup> Section 1915(d) dovetails with Rule 4, which provides that upon the request of a plaintiff  
27 authorized to proceed in forma pauperis, the Court “must” order “that service be made by a United States marshal or  
deputy or by a person specifically appointed by the court.” FED. R. CIV. P. 4(c)(3).

28 <sup>3</sup> The U.S. Marshals Service is located at 333 South Las Vegas Boulevard, Suite 2058, Las Vegas,  
Nevada 89101.

1 blank the defendant's last-known addresses. The U.S. Marshals Service will acquire this addresses  
2 from the Attorney General's sealed filing at ECF No. 15.

3 IT IS FURTHER ORDERED that the Clerk of Court serve a copy of this order, the sealed  
4 and issued summons, and the operative complaint (ECF No. 49) on the U.S. Marshals Service.

5 IT IS FURTHER ORDERED that upon receipt of the USM-285 forms from plaintiff, the  
6 U.S. Marshal shall, in accordance with Federal Rule of Civil Procedure 4(c)(3), attempt service on  
7 defendant Romeo Aranas at his last known addresses, filed under seal at ECF No. 15.

8 DATED: September 15, 2020.

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11 BREND A WEKSLER  
12 UNITED STATES MAGISTRATE JUDGE  
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